

REMARKS

This Amendment and Response amends claims 2, 4, 6-11, 17, 21, 24, 26, 30, 31, 34, 48, 50, and 51, adds new claims 52-68, and cancels claims 1, 3, 5, 12-16, 18-20, 22, 23, 27-29, 35-47, and 49 without prejudice. With this Amendment and Response, claims 2, 4, 6-11, 17, 21, 24-26, 30-34, 48, and 50-68 are pending in this application. No fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855.

I. 35 U.S.C. § 102 Rejections

The Action rejects claims 1 and 30 under 35 U.S.C. § 102 as being anticipated by Alsop. Claim 1 has been cancelled thereby rendering the Action's rejection of this claim moot. Claim 30 has been amended to recite a device for marinating meat products which has a marinade application station with at least one nozzle that emits and directs at least one jet of marinade onto the meat product to coat at least a portion of the outer surface of the meat product with marinade. Alsop does not teach the recited device at least because it fails to teach or suggest a nozzle for directing a jet of marinade onto a meat product to coat at least a portion of the outer surface of the meat product with marinade.

Alsop discloses a device for giving meat a smoked flavor by conveying the meat through a smoke filled chamber. Blower 26 is used to blow smoke particles into the chamber. *See generally* page 3, lines 69-95. The blower 26 does not direct the particles onto a meat product, however, but rather merely blows them into the chamber so that they are suspended in the air throughout the chamber. Electrostatic attraction is then used to attract

the smoke particles to the meat. Even assuming, *arguendo*, that the smoke particles were a marinade, there is no teaching or suggestion in Alsop of using a device with a nozzle to direct the smoke particles onto each meat product or that such a device would be successful to impart a smoked flavor to the meat. Furthermore, unlike the device of claim 30 which focuses the marinade directly onto the meat product, distribution of the smoke particles onto the meat is difficult to control with the Alsop device where the particles are randomly suspended throughout the chamber. Moreover, use of the Alsop device also results in unneeded waste as many of the smoke particles will be attracted to the negatively charged carriers instead of the negatively charged meat. Page 3, lines 8-14.

Because nothing in Alsop teaches or suggests a device having a nozzle for directing a jet of marinade onto a meat product to coat at least a portion of the outer surface of the meat product with marinade, Alsop fails to anticipate claim 30. Applicants' Assignee respectfully requests withdrawal of this rejection.

II. 35 U.S.C. § 103 Rejections

The Action rejects claims 1-19, 21, 24-27, 30, 31, 33-38, 48, 49, and 51 under 35 U.S.C. § 103 as being unpatentable over Alsop in view of Simonsen, Muschany, Janssen et al., Tanaka et al., Osiadacz, and Evans et al. Claims 1, 3, 5, 12-16, 18, 19, 27, 35-38, and 49 have been cancelled without prejudice, rendering the Action's rejection of these claims moot. Claim 2 has been rewritten in independent form to recite a method of marinating a meat product by coating at least a portion of the outer surface of the meat product by directing a jet of marinade from at least one nozzle onto the meat product.

For at least the reasons explained in *supra* Part I, Alsop does not teach a method of using a nozzle to direct a jet of marinade onto a meat product to coat portions of the outer surface of the meat product. Rather, Alsop teaches a method by which smoke particles are suspended in air and drawn to the meat products via electrostatic attraction. Nothing in Alsop teaches or suggests directing the smoke particles directly onto the meat. Thus, Alsop fails to teach or suggest the subject matter recited in amended independent claim 2 and also claim 30 (as discussed in Part I).

None of the other cited references teach the subject matter of claims 2 and 30 either. More specifically, none of the other cited references teach a nozzle that emits a jet of marinade directed onto a meat product to coat at least a portion of the outer surface of the meat product. Simonsen, Tanaka, Osiadacz, and Muschany all teach a method and device for injecting an additive into the meat, not coating the outer surface of the meat. Janssen relates only to a device and method for conveying animals, but provides not disclosure of coating such animals with a marinade. Finally, Evans discloses using electrostatic charging to deposit an additive onto a food product. There is no teaching or suggestion of a device or method for directing a jet of marinade onto the food product.

At least because none of the cited references teach or suggest a device or method for directing a jet of marinade to coat portions of the outer surface of a meat product, in combination they fail to disclose or suggest the subject matter recited in independent claims 2 and 30 and these claims are therefore allowable. So too are claims 4, 6-11, 17, 21, 24-26,

48, and 50-60, which depend from claim 2 and claims 31-34 and 61-68, which depend from claim 30.

III. Claims 32 and 50

In a April 9, 2003 Office Action, the Examiner maintained that the claims of the elected Groups I and II contained claims directed to two patentably distinct species and required Applicants' Assignee to elect between Species I (wherein the detection means is a weigher) and Species II (wherein the detection means is a camera). In a May 9, 2003 Amendment and Response to Office Action, Applicants' Assignee elected to pursue prosecution of Species II, where in the detection means is a camera.

Applicants' Assignee believes that the present amendments overcome the Action's rejections of all pending claims of Groups I and II and thus respectfully request that the Examiner expand the scope of search to include the non-elected Species I. Applicants' Assignee believes that claims 32 and 50 are allowable at least by virtue of their ultimate dependence on claims 30 and 2, respectively.

CONCLUSION

Applicant's Assignee respectfully submits that claims 2, 4, 6-11, 17, 21, 24-26, 30-34, 48, and 50-68 are in condition for immediate allowance, and requests early notification of their allowance. If there are any matters that can be addressed by telephone, the Examiner is urged to contact the undersigned prior to issuance of a final Office action.